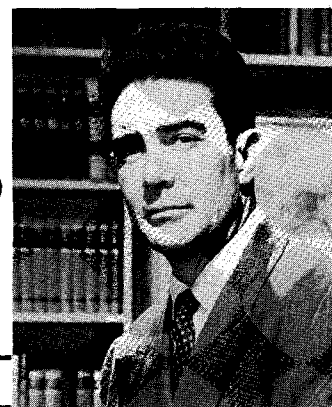


THE *Dan Smoot Report*



DAN SMOOT

Vol. 8, No. 26

(Broadcast 359)

June 25, 1962

Dallas, Texas

CAN LIBERTY SURVIVE?

The Kennedy Farm Bill for 1962 will tighten communist-fascist type controls on American agriculture and create even richer opportunities for the kind of graft and corruption revealed by the Billie Sol Estes case (see "Communizing and Corrupting Agriculture," this *Report*, June 11, 1962).

The Estes case should have been the final straw to cause an outraged Congress and public to reject not only the new Kennedy Farm Bill, but also the whole agricultural program as it already exists.

But President Kennedy is ruthlessly trying to force the new Farm Bill on the nation.

On June 12, 1962, Robert E. Baskin, Washington Bureau representative of *The Dallas Morning News* reported that President Kennedy had "mustered a far-flung array of government and industry lobbyists in behalf of the administration's farm bill."

Defense Department and foreign aid officials and emissaries from Vice President Johnson's office are threatening cancellation of huge government spending programs in districts whose Representatives vote against the farm bill. Businessmen, fearing loss of government business, are putting pressure on their Representatives and Senators to go along with the President's farm bill.

On January 18, 1962, President Kennedy asked Congress to authorize an increase in the national debt (to \$308 billion dollars) for one year beginning July 1, 1962.

On June 5, 1962, United States Representative Wilbur Mills (Democrat, Arkansas), introduced HR 11990 — which authorizes a rise in the national debt ceiling to 308 billion dollars on July 1, 1962 (as Kennedy demanded) but requires the ceiling to drop to 305 billion by April 30, 1963, to 300 billion by June 24, 1963.⁽¹⁾

THE DAN SMOOT REPORT, a magazine published every week by The Dan Smoot Report, Inc., mailing address P. O. Box 9538, Lakewood Station, Dallas 14, Texas, Telephone TAYlor 1-2303 (Office Address 6441 Gaston Avenue). Subscription rates: \$10.00 a year, \$6.00 for 6 months, \$3.00 for 3 months, \$18.00 for two years. For first class mail \$12.00 a year; by airmail (including APO and FPO) \$14.00 a year. Reprints of specific issues: 1 copy for 25¢; 6 for \$1.00; 50 for \$5.50; 100 for \$10.00 — each price for bulk mailing to one person. Add 2% sales tax on all orders originating in Texas for Texas delivery.

Copyright by Dan Smoot, 1962. Second class mail privilege authorized at Dallas, Texas.

No reproductions permitted.

When opposition to the Mills Bill developed in the House, Kennedy threatened to cancel Defense contract spending in districts of United States Representatives who voted against the Bill. Thereupon, businessmen with government contracts began putting pressure on their Representatives to go along with the President.

Various Representatives correctly labeled this behavior blackmail. Representative August E. Johansen of Michigan said it was blackmail on the part of the Kennedy Administration, and contemptible cowardice on the part of businessmen and congressmen who were succumbing to the Administration threats.⁽²⁾

But a majority of United States Representatives did succumb.

On June 14, 1962, the House of Representatives, by a vote of 211 to 192, approved HR 11990, authorizing the debt increase to 308 billion dollars.⁽³⁾

Kennedy uses the same lawless and arrogant tactics in connection with every piece of major legislation which meets opposition in Congress: and has been doing so since his Administration began in 1961, when he used the equivalent of bribery and extortion with public money to force the packing of the House Rules Committee with "liberals."⁽⁴⁾

Mr. Johansen is right. Dictators always force acceptance of their programs by promising rewards to supporters, threatening and punishing opponents. The verdict of history should not really be against men like Kennedy, sick with a hunger for power, but against the cowards who let them have their way.

Can Congress Survive?

by Thomas M. Pelly, United States Representative from the State of Washington

On May 21, 1962, United States Representative Thomas M. Pelly made a speech in the House, briefly reviewing some of the steps by which the President (through default of the Legislative Branch to do its duty) has usurped

powers, in violation of the Constitution. Every American who values liberty should read Pelly's speech and heed the grim warnings in it. Below are abbreviated extracts from Representative Pelly's remarks:

I have asked for permission to address the House to discuss the balance of governmental powers written into the Constitution of the United States.

Mine is not a belated protest in aftermath of the recent crackdown on the price of steel. The powers involved in that unhappy incident (including implied legal retribution and economic reprisals) are only a single manifestation of long-range derangement in the equilibrium of legislative prerogatives and the consequent seizure of power by the Executive Branch.

I have expressed similar views under other Administrations; but never before have I spoken with such deep concern; for never before has there been such cause for concern. Who can deny that this Administration has sought power as has no previous administration in history?

But the blame for yielding to a President should be placed where it belongs — on the Congress itself.

The architects of the Constitution knew dictatorships were easy to establish and difficult to displace. Drawing upon bitter experience and harsh history, they went to great pains to spell out in the Constitution a system of checks and balances. In establishing this Republic, they sought protection against what is going on now — undue concentration of power in any one branch of the government. Trying to protect the people against future despotisms, the Founding Fathers wrote a Constitution which placed initiative in the Congress.

The President's powers are limited by the Constitution. He is required to give to the Congress information on the State of the Un-

ion and recommend such measures as he shall judge necessary and expedient.

He is granted power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

He may veto an act of Congress, but Congress can override his veto by a two-thirds vote.

The Constitution grants Congress the sole power to make Federal laws, and to levy taxes, including duties on imports.

For the past 60 years, however, the trend has been toward relegating the Legislative Branch to the position of junior partner. Powers which the Constitution grants to Congress are being exercised by the President.

Since 1933, executive encroachment on legislative functions has increased sharply because of continuing national crises.

Many alive today cannot remember when there was not a condition of national emergency. Out of military mobilization and economic crisis there have come a constant centralization of power in the Chief Executive, and a diminishing exercise of constitutional responsibility by the Congress. Today, President Kennedy is seeking so much new power and control (beyond what his predecessors sought) that a question arises: Can Congress survive?

By that I mean, can it survive other than as a rubber stamp?

Emperor Augustus did not abolish the Roman Senate nor Hitler the German Reichstag. A submissive assembly is convenient to a dictator — in fact it has been called an indispensable instrument of managerial rule. The Soviets maintain an assembly. It provides a convenient false front of respectability for a dictatorship.

So, when I ask whether Congress can survive, I really mean, can constitutional government and individual liberty survive in these United States?

The basic struggle is between the permanent bureaucratic apparatus (with its politically appointed leaders) and the legislators who make the laws under which these gigantic and multitudinous agencies operate. This fight is centered around control of the government purse.

The erosion of legislative authority has come about largely through the failure of the Congress to exercise its responsibilities over appropriations. This lack of control over spending has resulted from an ever-growing government and the paralyzing effect of multitudinous details. The budget has grown to such proportions it cannot be comprehended and hence cannot be effectively controlled. By default, if not by design, the bureaucrats of the Executive Department end up making policy and running the Government.

The facts show clearly that with our Government, as with all bureaucracies, excess of appetite grows by what it feeds on: power and money. These facts show that during the last thirty years the trend has been for Congress increasingly to forfeit its constitutional requirement of appropriating all general expenditures. Instead, Congress has authorized the burgeoning administrative agencies to borrow funds from the Treasury and thereby bypass the normal appropriations procedure, which subject expenditures to annual justification and review. Congressional committees, set up to weigh the urgency of programs against available revenue, are thereby bypassed.

Before proceeding with comment on the contemporary shift in power from Congress to the President, let me identify earlier areas of decline in Congressional influence — decline in the period prior to the Kennedy Administration.

Generally speaking, President Eisenhower was less aggressive than his two immediate predecessors, Presidents Roosevelt and Truman. Nevertheless, Eisenhower's two terms included some specific actions which increased the power of the Presidency at the expense of the Congress.

President Eisenhower was adamant against any reduction in Presidential direction of foreign policy. Specifically, he opposed the Bricker Amendment, which would have required Congressional approval of Executive agreements with foreign nations.

President Eisenhower sought and received "blank check" approval, or (as one legislator put it) "a predated declaration of war" from Congress. Thus, Congress surrendered to the Chief Executive its own constitutional power and responsibility to declare war, in connection with legal commitment of United States troops to battle through the Formosa and Mideast Resolutions.

President Eisenhower also followed a practice of his predecessors in refusing to spend money which Congress had directed for specific programs.

In 1955, for example, although the Chief Executive does not have an item veto, the President signed a public works appropriation bill but stated he would freeze funds for certain projects in the bill. He also refused to spend money appropriated for a buildup of certain elements of the Armed Forces.

There have been cases of Presidential assumption of power by actions condemned by many as being beyond their constitutional authority. President Truman was so criticized for sending troops to Korea. President Eisenhower was similarly criticized for using troops to enforce Federal judicial decrees in Little Rock, Arkansas. Those are some examples which occurred prior to the present Administration.

President Kennedy scored his first important victory over the Legislative Branch by influencing a so-called packing of the House Committee on Rules.⁽⁴⁾

By this means, a potential conservative roadblock to his various liberal legislative requests was removed. Likewise, in emulation of Franklin Roosevelt, President Kennedy has established effective machinery to persuade individual members to vote for his programs. Under this pressure, many independent conservative opponents of the New Frontier have been brought into line.

Just a few weeks ago the Chairman of the House Committee on Armed Services took a walk in the White House rose garden, which resulted in diminished Congressional influence over national security. That was when we gave up on the B-70 program.

In discussing the subject of actual transfer of authority from Congress to the President, I refer to the Reorganization Act of 1949. In effect, this law reversed the roles of the respective branches of Government. Under this act, the Executive can submit reorganization plans for Government agencies. If neither House of Congress vetoes such proposals, they automatically go into effect.⁽⁵⁾

One of the first acts of the Kennedy Administration was to propose (under the 1949 Law) reorganizational changes to enlarge the powers of (and permit Presidential control over) Federal Agencies (established by Congress as "independent" agencies) — such as the Interstate Commerce Commission, the Federal Power Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Trade Commission, the Home Loan Bank Board, the Federal Maritime Board, the Federal Communications Commission and the National Labor Relations Board.

Congress partially capitulated to President Kennedy's plan for reorganizing these regulatory agencies.

Congress (1961) vetoed three of President Kennedy's reorganization plans (for the SEC, the FCC, and the NLRB), but, *by not vetoing*, approved all the others.⁽⁶⁾

One of the early farm bills proposed by this Administration — the feed grain bill — was the President's request for Congress to give the Secretary of Agriculture more power than any previous Secretary had ever held. That new plan provided "black-jack" powers over our corn farmers, so that, for example, if farmers failed to sign a so-called voluntary acreage contract in return for a guarantee of \$1.20 a bushel, they faced financial ruin through authority of the Secretary to sell surplus corn on the open market at less than the farmers' production cost price.⁽⁷⁾

Formal shifts in power from Congress to a President, such as these mentioned, by specific grants of authority, are relatively easy to identify. But the shift by slow accretion, through long-developing trends (or even through aggressive seizures of power by the President) is much more difficult to measure.

In the Executive Branch, politically appointed officials come and go; but the basic power is in the permanent bureau heads. Congress itself has no adequate machinery for discerning how and when agency spending plans and programs originate. The details are well camouflaged, and bureaucrats can manipulate power within their respective agencies.

Under our system, the road to advancement for bureaucrats is expansion of Government activity. More personnel and more responsibilities mean more funds to expend. That is the one sure method of upgrading positions.

Therefore, Federal spending and employment figures are a barometer of Executive Department influence. In the beginning of fiscal 1961 (July, 1960), civilian employees of the Executive agencies of the Federal Government totaled 2,382,549. Since Kennedy's inaugura-

tion, 150,000 new Federal employees have been added to the Federal payroll. High-salary bureaucrats (over \$10,000 a year) are increasing in number at the greatest rate. The Kennedy Administration is constantly demanding authorization for "super-grades," above regular Civil Service rates of pay. This represents more pay and more power.

In fiscal 1961, President Kennedy spent \$2,588,000,000 more than the Eisenhower estimate. For fiscal 1962 President Kennedy asked for authority to spend \$10,195,000,000 more than was programmed by his predecessor.

Forty-four percent of these amounts was for non-military items: it was for New Frontier expansion of the bureaucracy — which means increased power and influence for the Executive Branch, decline in power and prestige for the Legislative Branch.

In the past three decades (as I have said) there has been increasing use of the "back-door spending" device whereby Congress authorizes the Administration to borrow funds from the Treasury and spend the money without the year-to-year check by Congressional appropriations committees. This device (undermining Congressional control and responsibility) is used in spite of the constitutional provision that no money shall be drawn from the Treasury except in consequence of an appropriation by law.

Though he himself used the device, Eisenhower, on leaving office, urged Congress to discontinue any new programs financed by the "backdoor" method.

But the practice has grown.

Never, before Kennedy, has a Chief Executive of this nation demanded such vast sums and unchecked spending power, through authority to borrow and finance programs outside the appropriations procedure.

Congress, in the Constitution, is granted the power to regulate commerce with foreign nations; but, in the Export Control Act of

1949, Congress delegated this responsibility to the President. The President finds a Soviet bloc nation, a nation admittedly controlled by the international communist movement, to be "friendly" and thereby finds it eligible for shipments of surplus subsidized grain. The President, under authority given him, finds another bloc country — Yugoslavia — is not under domination of the U.S.S.R. and makes it eligible for aid, both military and economic.

The President can waive the provisions of the Battle Act — as he has done on a number of occasions. In other words, he can determine that it is in the interest of our national security to overlook shipments of strategic military goods by our allies to our enemies. No penalty has ever been invoked under this provision of the act.

It seems that Congress feels it must yield all decisions and discretion to the Chief Executive. Even on his proposal to authorize purchase of U.N. bonds, it appears the Congress won't face up to the issue itself, but seems about to allow the President to decide what to do and how to do it.

Occasionally Congress stands firm, as in the case of the omnibus agricultural bill, in which Kennedy requested new authority for the Executive to draw up programs subject only to Congressional veto — a device which would reverse the legislative process prescribed by our Constitution. The House flatly refused the President's request.

The accelerated trend toward usurpation of power by the Executive Branch is well exemplified by the President's request for authority to reduce tariffs. Congress, by the Constitution, is granted power "to lay and collect . . . duties." Yet, in the proposed new tariff bill, Congress is asked to make a sweeping delegation of these powers to the President. This proposal seeks to thwart and ignore plainly written provisions of the Constitution. It would allow the Executive to fix duties and

commodity quotas. Moreover, it would provide that Presidential determinations "shall be final and conclusive and shall not be subject to review by any court." Thus, victims of illegality in the application of trade laws could be deprived even of judicial review.

Turning such power over to the President could result in political log-rolling — like the recent Presidential order for increase of tariffs on woolen carpets and glass. This order was obviously intended to obtain sectional support for the President's tariff bill. The Administration tried in the same way to "buy" votes for the new tariff bill from Congressmen representing textile areas.

President Kennedy asks Congress for standby authority to reduce income tax rates by five percent. If the President gets power to *reduce* taxes, who believes that he will not also demand power to *increase* taxes? The Constitution puts the taxing power in Congress.

President Kennedy requests standby power to spend \$2 billion on public works programs, in the event of future economic recession. This delegation of power would violate the Constitutional provision for annual appropriations by Congress.

If the Congress delegates its supreme power of taxation and appropriation to any President, Democrat or Republican (no matter how benevolent or well-intentioned, and regardless of circumstances), the Legislative Branch will be abrogating its responsibilities under the Constitution. The United States Government is the nation's largest employer, and by far the largest purchaser of goods and services. In fiscal 1963, the Government's cash spending will amount to approximately \$115 billion — \$55 billion of which will go to business. Defense contracts alone will amount to about \$26 billion and the rest will be for highways, space exploration, atomic programs, and the

like. The vast power that goes with that spending, the power to grant or deny orders, the power to determine where the money will be spent, is frightening. Congress should never abrogate its control over that spending.

Once the Legislative Branch of Government abrogates its constitutional responsibilities, and the power of the President is unchecked, then we can have a dictatorship. That is why Presidential proposals calling for delegation of more power should never be granted.

One of the most insidious actions in connection with the reduction of legislative influence was a directive of the Civil Service Commissioner, telling government employees they have a "positive obligation" to promote all Administration programs — even if the programs are the source of partisan political controversy.

Does this Civil Service directive violate the law against Federal employees' participation in partisan politics? Certainly, it orders lobbying, by government employees, on such issues as medical care for the aged.

The late President Franklin D. Roosevelt once told Congress that he hoped it would not let the question of constitutionality stand in the way of passing one of his proposals.

After Mr. Roosevelt, there came Harry S. Truman who insisted that there were inherent powers in the Presidency which supersede the power of Congress. Fortunately the third coordinate branch, the Supreme Court, disagreed and overruled him on this point.

President Eisenhower sought dominion in foreign affairs. Mr. Eisenhower now publicly expresses alarm at the trend toward Executive dominance.

The Kennedy Administration is pushing this trend toward the ultimate end of relegating Congress to the role of rubber stamp.

Congress must assert its rights, and preserve representative government.

Earlier in this Administration, there were a number of "profiles in courage" in the Congress who faced up to vital issues. They were not overwhelmed by the New Frontier nor by a popular and politically astute President. They stood firm under great pressure.

I don't know whether any of these members changed their views and votes after a walk in the White House rose garden, or under threat or duress by a ruthless political machine bent on obtaining power. I have heard that some of them have succumbed. I am not pointing my finger in any specific direction, but at the Congress as a whole which could easily descend from its high position as the once "greatest legislative body in the world" to a mere assembly of "yes men."

My words are not uttered in partisanship, but in devotion to the national interest and against decay of our constitutional system:

decay such as the delegation of power to the President to modify income taxes;

decay such as delegation of power to the President to divert funds from authorized purposes for emergency public works;

decay such as authorizing delegation of power to compel farmers to participate in government programs;

decay such as abdication of power over appropriations and the regulating and taxing of commerce.

Republicans and Democrats alike, we had better wake up. As legislators and representatives sworn to uphold the Constitution, we had better keep our oath. Otherwise, this still young and vigorous Nation will gradually return to the harsh and unhappy rule of the despot.

What To Do?

We habitually condemn the President for disastrous and tyrannical programs which violate our Constitution and do infinite harm to our country. But the President is merely the chief propagandist for the programs: it is Congress which "authorizes" them and confiscates our money to pay for them.

Our only recourse — our only hope — is in the Congress. We will not restore America as a free and independent Republic, or check the arrogant and illegal abuse of power which has become commonplace behavior in the White House, until we elect United States Representatives and Senators dedicated to the ideal of preserving the American constitutional system.

Throughout 1961, we published, in this *Report*, significant roll-call votes, in the Senate and House, which reflected a clear-cut stand for or against constitutional principles. In the October 30, 1961, issue of this *Report* ("Representation or Misrepresentation?"), we rated all members of the present Congress on the basis of their voting during the first session, in 1961.

In the March 5, 1962, issue, we recorded the roll-call votes of all Senators and Representatives on two significant issues. In the April 23, 1962, issue, we recorded the Senate roll-call on the UN Bond issue, and recorded seven House roll-call votes reflecting clear-cut constitutional issues.

We urge all Americans to study these, or comparable, voting records during this important election year. When voters begin to remove from office those legislators who habitually vote against constitutional principles, we will be on the way toward electing a Congress which will restore our American constitutional Republic.

FOOTNOTES

- (1) *Congressional Quarterly Weekly Report*, June 8, 1962, p. 963
- (2) "Debt Bill Brings 'Blackmail' Cry," *New York Times*, June 14, 1962, p. 16
- (3) "House Sanctions 308 Billion Debt," *New York Times*, June 15, 1962, p. 1
- (4) For detailed account of Kennedy Administration behavior in the Rules-Packing issue, see this *Report*, April 3, 1961, "On The New Frontier."
- (5) Some discussion of the Reorganization Act of 1949 is in the March 5, 1962, issue of this *Report*, "Urban Affairs Controversy."
- (6) Discussion of the President's Reorganization Plans in 1961, and roll-call votes on the proposals, are in this *Report*, August 21, 1961, "How The Congress Stands."
- (7) Details on the Farm Bill are in this *Report*, June 11, 1962, "Communitizing And Corrupting Agriculture."

WHO IS DAN SMOOT?

Dan Smoot was born in Missouri. Reared in Texas, he attended SMU in Dallas, taking BA and MA degrees from that university in 1938 and 1940.

In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for the degree of Doctor of Philosophy in the field of American Civilization.

In 1942, he took leave of absence from Harvard in order to join the FBI. At the close of the war, he stayed in the FBI, rather than return to Harvard.

He worked as an FBI Agent in all parts of the nation, handling all kinds of assignments. But for three and a half years, he worked exclusively on communist investigations in the industrial midwest. For two years following that, he was on FBI headquarters staff in Washington, as an Administrative Assistant to J. Edgar Hoover.

After nine and a half years in the FBI, Smoot resigned to help start the Facts Forum movement in Dallas. As the radio and television commentator for Facts Forum, Smoot, for almost four years spoke to a national audience giving both sides of great controversial issues.

In July, 1955, he resigned and started his own independent program, in order to give only one side — the side that uses fundamental American principles as a yardstick for measuring all important issues.

If you believe that Dan Smoot is providing effective tools for those who want to think and talk and write on the side of freedom, you can help immensely by subscribing, and encouraging others to subscribe, to *The Dan Smoot Report*.